



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
AMERICAN GENIUS & CO., INC.,

Plaintiff,

v.

WORLDWIDE DREAMS LLC and  
NORMAN ABRAMSON

Defendants.  
-----X

Civil Action No. 1:07-cv-6980-SAS  
ECF CASE

Conference Date: October 3, 2007

**SCHEDULING ORDER**

WHEREAS, the Court issued an Order for a Conference in accordance with Fed. R. Civ. P. 16(b) on August 22, 2007 (the "Order"); and

WHEREAS, the Order requires that the parties jointly prepare and sign a proposed scheduling order containing certain information;

NOW, THEREFORE, the parties hereby submit the following information as required by the Order:

(1) The Date Of The Conference And The Appearances For The Parties:

A. Initial Pretrial Conference: October 3, 2007, at 4:00pm

B. Appearance for Plaintiff: Michael R. Gilman, Esq.  
Kaplan Gilman Gibson & Dernier LLP  
900 Route 9 North, Ste 504  
Woodbridge, NJ 07095  
(732) 634-7634

C. Appearance for Defendants: Jonathan J. Faust, Esq.  
Michael Sarney, Esq.  
Katten Muchin Rosenman LLP  
575 Madison Avenue  
New York, NY 10022  
(212) 940-8639

## (2) A Concise Statement Of The Issues As They Then Appear:

Plaintiff has brought this action as a copyright and trademark infringement action and a trademark dilution against defendant, under 17 U.S.C. §101 *et. seq.*, and 15 U.S.C. §1051 *et. seq.*, respectively, and the statutory and common laws of the State of New York relating to unfair competition, injury to business reputation, state anti-dilution, deceptive trade practices and breach of contract. At the time of the filing of this scheduling order, defendant has not yet appeared in the action, but will deny all of the allegations.

## (3) A Schedule Including:

## A. The Names Of Persons To Be Deposed And A Schedule Of Planned Depositions:

Both plaintiff and defendant are unable at this early stage of this action to name persons to be deposed and/or to set a deposition schedule. However, the parties will work within the below discovery schedule to name and schedule depositions as needed. This said, the parties believe that Steven Mark Abrams and Linda Rae Tepper for plaintiff, and Norman Abramson and Bernard Patrusky for defendant, will be deposed in this Action.

Dec  
JAN  
Feb

The parties agree that production under Fed. R. Civ. P. 26(a)(1) shall be completed by: October 12, 2007.

## B. A Schedule For The Production Of Documents:

As indicated above, the parties agree to complete Rule 26(a)(1) disclosures by October 12, 2007. Otherwise, the parties will work within the below discovery schedule to serve and respond to document requests.

C. Time When General Fact Discovery Is To Be Completed: April 4, 2008.

## D. Dates By Which (I) Each Expert's Reports Will Be Supplied To The Adverse Side And (II) Each Expert's Deposition Will Be Completed:

1. Experts to be designated by: April 11, 2008. 3/7

2. Expert reports to be exchanged by: May 16, 2008. 4/4

3. Expert Reply Reports to be exchanged by: May 30, 2008. 4/18

4. Expert depositions to be completed by: June 27, 2008. 5/16

## E. The Date By Which Plaintiff Will Supply Its Pre-Trial Order Matters To Defendant:

doc. request by end of Nov. 30  
response Nov. 30

No Experts: April 25, 2008.

3/21

With Experts: July 11, 2008.

6/6

F. The Date By Which The Parties Will Submit A Pre-Trial Order In A Form Conforming With The Court's Instructions Together With Trial Briefs And Either (1) Proposed Findings Of Fact And Conclusions Of Law For A Non-Jury Trial, Or (2) Proposed Voir Dire Questions And Proposed Jury Instructions, For A Jury Trial:

No Experts: June 13, 2008.

4/11

With Experts: August 22, 2008.

6/27

G. A Space For The Date For A Final Pre-Trial Conference Pursuant To Fed. R. Civ. P. 16(D), To Be Filled In By The Court At The Conference:

3/7 at 4:00

- (4) A Statement Of Any Limitations To Be Placed On Discovery, Including Any Protective Or Confidentiality Orders:

The parties may serve twenty five (25) interrogatories, inclusive of subparts, and fifteen (15) contention interrogatories, with either party being able to diverge from this limit by consent of the adverse party and/or upon the granting of a motion therefore issued by the Court.

In addition, the parties will submit a protective order to the Court in due course.

- (5) A Statement Of Those Discovery Issues, If Any, On Which Counsel, After A Good Faith Effort, Were Unable To Reach An Agreement:

At the time of submission of this Order to the Court, the parties represent that they do not know of any discovery issues upon which they have been unable to reach agreement.

- (6) Anticipated Fields Of Expert Testimony, If Any:

The parties do not at present anticipate the need for expert discovery, except, perhaps on the issue of damages.

- (7) Anticipated Length Of Trial And Whether To Court Or Jury:

The parties anticipate a 3 - 5 day trial to a jury.

- (8) A Statement That The Scheduling Order May Be Altered Or Amended Only On

A Showing Of Good Cause Not Foreseeable At The Time Of The Conference Or When Justice So Requires:

Interim discovery deadlines may be extended by the parties on consent without application to the Court, provided the parties are certain they can still meet the discovery completion date ordered by the Court, which shall not be adjourned except upon a showing of good cause not foreseeable at the time of the pretrial conference, or when justice so requires.

- (9) The parties agree to accept service of non-ECF documents, other than actual document production under Fed. R. Civ. P. 34, if served by electronic mail on the day of such service, with three (3) additional days for response, if necessary pursuant to Fed. R. Civ. P. 6(e), if emailed as follows:

(a) If to Plaintiff's counsel: to Michael R. Gilman at mgilman@kggd.com.

(b) If to Defendants' counsel: to Jonathan J. Faust at jonathan.faust@kattenlaw.com and to Michael Sarney at michael.sarney@kattenlaw.com.

- (10) Names, Addresses, Phone Numbers And Signatures Of Counsel:

SUBMITTED AND CONSENTED TO BY:

KAPLAN GILMAN  
GIBSON & DERNIER LLP

KATTAN MUCHIN & ROSENMAN LLP

By: 

Michael R. Gilman (MG 7608)  
*Attorneys for Plaintiff*  
900 Route 9 North, Suite 504  
Woodbridge, NJ 07095  
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mgilman@kggd.com

By: 

Jonathan J. Faust (JF 2037)  
Michael Sarney (MS 3755)  
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575 Madison Avenue  
New York, NY 10022  
Telephone (212) 940-8639  
jonathan.faust@kattenlaw.com

SO ORDERED this

3

day of

October

7 2008.

  
SHIRA A. SCHEINDLIN, U.S.D.J.